

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

EIGHT MILE STYLE, LLC; MARTIN
AFFILIATED, LLC,

Plaintiffs,

v.

SPOTIFY USA INC.,

Defendant.

Civil Case No. 19-CV-00736

Hon. Aleta A. Trauger

**SPOTIFY USA INC.’S MOTION TO DISMISS FOR LACK OF PERSONAL
JURISDICTION AND IMPROPER VENUE, OR, IN THE ALTERNATIVE, TO
TRANSFER VENUE TO THE SOUTHERN DISTRICT OF NEW YORK**

Defendant Spotify USA Inc. respectfully moves to dismiss the Complaint for lack of personal jurisdiction and improper venue pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(3), or, in the alternative, to transfer this action to the Southern District of New York pursuant to 28 U.S.C. § 1404(a).

Spotify is not subject to general personal jurisdiction because—as a Delaware corporation headquartered in New York—it is not “at home” in Tennessee. *Daimler AG v. Bauman*, 571 U.S. 117, 138-39 (2014). Nor has Spotify engaged in conduct aimed at Tennessee—much less aimed at this District, as required for venue to be proper under 28 U.S.C. § 1400(a)—that bears a “substantial connection” to the claim, which is what is required to permit the exercise of specific personal jurisdiction. *Walden v. Fiore*, 571 U.S. 277, 283-84 (2014).

That said, the Court need not resolve the personal jurisdiction and venue issues because this case should be transferred to the Southern District of New York, just like another recent case involving similar allegations. *See Ferrick v. Spotify USA Inc.*, 2016 WL 11623778 (C.D. Cal. Oct.

26, 2016). The Southern District of New York is a more convenient forum for this action. New York is where Spotify is headquartered, where its challenged practices occurred, and where most of the relevant party and third-party witnesses are located. By contrast, Tennessee has little, if any, connection to any of the parties or the claim in this case.

WHEREFORE, for the reasons set forth in the accompanying Memorandum of Law and Declarations of Anna Lundström and Rory Schneider, the Court should dismiss the Complaint for lack of personal jurisdiction and improper venue, or, in the alternative, transfer the action to the Southern District of New York.

Dated: October 28, 2019

Respectfully Submitted,

By: /s/ Aubrey B. Harwell III

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*application for pro hac vice admission pending

† application for admission to M.D. Tenn. Bar forthcoming

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on October 28, 2019 with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all parties and counsel of record by operation of the Court's CM/ECF system. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

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